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FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. FILING DATE APPLICATION NO. 11/21/2001 James M. Green 8932-583 9556 09/989,169 09/23/2003 20582 7590 PENNIE & EDMONDS LLP EXAMINER 1667 K STREET NW ROBERT, EDUARDO C **SUITE 1000** WASHINGTON, DC 20006 PAPER NUMBER ART UNIT 3732

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary Examiner Eduardo C. Robert Syr32			Application No.	Applicant(s)	
Examiner Education Summary Education C. Robert 3732 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. E transcer of time may be available under the provisions of 31 CPR 1.356(b). In an owner, however, may a teply be timely filed If the period for reply specified above, he manarous adaptory prefront of the period of the provision of 12 CPR 1.356(b). In an owner, however, may a teply be timely filed If the period for reply specified above, he manarous databotry prefront and application of this communication. If the period for reply specified above, he manarous databotry prefront and application of the communication of the period of t					
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to a device, classified in class 606, subclass 80.
- II. Claims 12-14, drawn to a kit, reamer head and reamer head retainer, classified in class 606, subclass 79.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require that the cutting head be integral with the shank or even require a reamer head retainer or a reamer head removal device. The subcombination has separate utility such as a kit for removal of a reamer head from a retaining device. The reamer head and reamer head retainer has utility in another combination such as in a kit for removal of a reamer from a retaining device.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Reamer heads:

- I. Figures 5-10
- II. Figure 13

Reamer head retainer:

- A. Figures 14 and 15
- B. Figure 22

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for each of the reamers head and reamer head retainers for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Mr. Steve J. Schwarz on September 17, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Mr. Schwarz was not available at the time of the phone call and the examiner opted for mailing the requirement.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 703-305-7333. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Eduardo C. Robert Primary Examiner Art Unit 3732

E.C. Robert